

**Report on the  
County of Bedford - City of Bedford  
Joint Economic Development and  
Growth-Sharing Agreement**



**Commission on Local Government  
Commonwealth of Virginia**

**November 1997**

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**REPORT ON THE  
COUNTY OF BEDFORD - CITY OF BEDFORD  
JOINT ECONOMIC DEVELOPMENT AND  
GROWTH-SHARING AGREEMENT**

**PROCEEDINGS OF THE COMMISSION**

On July 31, 1997 the County of Bedford, with the endorsement of the City of Bedford, formally submitted to the Commission on Local Government for review a proposed interlocal agreement which had been negotiated by the two jurisdictions under the authority of Section 15.1-1167.1 of the Code of Virginia.<sup>1</sup> Consistent with the Commission's Rules of Procedure, the joint submission was accompanied by data and materials supporting the proposed agreement. Further, in accordance with statutory requirements, the localities concurrently gave notice of the proposed agreement to 31 other political subdivisions with which the County and the City were contiguous or with which they shared functions, revenues, or tax sources.<sup>2</sup> The proposed agreement contained provisions which would (1) require the County to share with the City certain local tax revenues it derives from portions of the County identified in the accord as the Economic Development Areas, (2) require the City to share with the County certain local tax revenues it receives from an industrial park located within the municipality, (3) commit the City to the construction of certain water and sewer improvements in the County, and (4) engage the two jurisdictions in a joint economic development effort.<sup>3</sup>

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<sup>1</sup>County of Bedford and City of Bedford, **Notice by the County of Bedford and the City of Bedford of Their Intent to Petition for an Order Affirming a Joint Economic Development and Growth Sharing Agreement** (hereinafter cited as **Joint Notice**).

<sup>2</sup>Sec 15.1-945.7(A), Code of Va.

<sup>3</sup>**Joint Economic Development and Growth Sharing Agreement By and Between Bedford County, Virginia and the City of Bedford, Virginia, June 2, 1997** (hereinafter cited as **Growth-Sharing Agreement**). See Appendix A for the complete text of the **Growth-Sharing Agreement**.

For purposes of reviewing the proposed accord, the Commission convened in the City of Bedford on August 18, 1997 to tour the City and relevant areas of Bedford County, to receive oral testimony from local officials regarding the agreement, and to conduct a public hearing for the purpose of receiving citizen comment.<sup>4</sup> The public hearing, which was advertised in accordance with Section 15.1-945.7(B) of the Code of Virginia, was attended by approximately 60 persons and produced testimony from 6 individuals. In order to permit receipt of additional public comment, the Commission agreed to keep open its record for written submissions through September 2, 1997.

#### **SCOPE OF REVIEW**

The Commission on Local Government is directed by law to review negotiated revenue-sharing agreements, such as the one before us, prior to their presentation to the courts for ultimate disposition. Upon receipt of notice of such proposed agreements, the Commission is directed "to hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations regarding the issue to the affected local governments.<sup>5</sup> With respect to a proposed agreement negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia, the Commission is required to determine in its review "whether the proposed settlement is in the best interest of the Commonwealth."

As we have noted in previous reports, it is evident that the General Assembly encourages local governments to attempt to negotiate cooperative agreements to address interlocal concerns. Indeed, one of the statutory

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<sup>4</sup>Commissioners Heston, Williams, Hubard, and Raflo attended the Commission's hearings in Bedford on August 18. The fifth position on the Commission was vacant due to the death of Harold S. Atkinson.

<sup>5</sup>Sec. 15.1-945.7(A), Code of Va.

responsibilities of this Commission is to assist local governments in such efforts. In view of this legislative intent, the Commission believes that proposed interlocal agreements, such as that negotiated by the City of Bedford and Bedford County, in this instance, should be approached with respect and a presumption of their compatibility with applicable statutory standards. The Commission notes, however, that the General Assembly has decreed that interlocal agreements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia shall be reviewed by this body prior to their final adoption by the local governing bodies. We are obliged to conclude, therefore, that while interlocal agreements are due respect and should be approached with a presumption of their consistency with statutory standards, such respect and presumption cannot be permitted to render our review a **pro forma** endorsement of any proposed accord. Our responsibility to the Commonwealth and to the affected localities requires more.

### **GENERAL CHARACTERISTICS OF THE CITY OF BEDFORD, THE COUNTY OF BEDFORD, AND THE REVENUE SHARING AREAS**

#### **CITY OF BEDFORD**

The City of Bedford was incorporated as a town in 1912 and became one of Virginia's independent cities in 1968.<sup>6</sup> As of 1990, the City of Bedford had a population of 6,073 persons, reflecting a growth in its populace of only 1.4% since the 1980 Census.<sup>7</sup> A population estimate for

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<sup>6</sup>J. Devereux Weeks, **Dates of Origin of Virginia Counties and Municipalities** (Charlottesville: Institute of Government, University of Virginia, 1967).

<sup>7</sup>U. S. Department of Commerce, Bureau of the Census, **1980 Census of Population, Number of Inhabitants, Virginia**, Table 2; and U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 1. See Appendix B for a statistical profile of the City of Bedford and Bedford County. See Appendix C for a map of the City, the County, and the areas subject to the revenue-sharing provisions of the proposed agreement.

1996, however, placed the City's populace at 6,400 persons, an increase of 5.4% since the preceding decennial census.<sup>8</sup> Based on its land area of 6.8 square miles and the 1996 population estimate, the City has a population density of 941 persons per square mile.<sup>9</sup>

In regard to the City's overall fiscal condition, statistics indicate that between 1985 and 1995 (the latest year for which such information is available) the true value of real estate and public service corporation property in the municipality increased from \$133.0 million to \$250.8 million, or by 88.6%, substantially less than the rate in the State overall (101.2%).<sup>10</sup> Further, the City's total taxable retail sales, a significant indicator of the strength of the locality's commercial base, rose by 60.1% from 1985 to 1995, a growth rate significantly less than that of the State as a whole (66.9%).<sup>11</sup> Furthermore, between 1980 and 1990 the number of

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<sup>8</sup>"Population Estimates for Virginia Localities," Weldon Cooper Center for Public Service (electronic dataset), December 23, 1996. The City of Bedford's 1996 population estimate includes the results of an annexation effected June 30, 1993 pursuant to a voluntary settlement with the County which increased the City's population by 186 persons and its land area by 26.7 acres.

<sup>9</sup>**1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 16.

<sup>10</sup>Virginia Department of Taxation, **Virginia Assessment/Sales Ratio Study, 1985**, Mar. 1987; and **Virginia Assessment/Sales Ratio Study 1995**, February 1997. The per capita increase in true real estate and public service corporation properties in the City of Bedford and the Commonwealth generally was 82.7% and 73.4%, respectively.

<sup>11</sup>Virginia Department of Taxation, **Taxable Sales in Virginia Counties and Cities, Annual Reports, 1985 and 1995**. On a per capita basis, taxable retail sales in the City increased by 55.1% between 1985 and 1995, compared to an increase of 43.8% for Virginia as a whole. Not included in the data reported by the Virginia Department of Taxation for taxable sales are sales of certain motor vehicles, trailers and semi-trailers, mobile homes and travel trailers, motor vehicle fuels, and products sold in Alcohol Beverage Control stores.

nonagricultural wage and salary employment positions in the City increased from 4,380 to 4,730 positions, or by 8.0%.<sup>12</sup> An official estimate for March 1995, however, placed the number of nonagricultural wage and salary positions in the City at 4,535, a decrease of 4.1% since 1990.<sup>13</sup> In sum, these measures reflect a municipality which has experienced, comparatively, less than robust economic growth in recent years.

Further evidence of the City's fiscal condition is revealed by annual statistical analyses conducted by this Commission. These analyses have been based upon a Virginia-adapted "representative tax system" methodology which establishes a theoretical level of revenue capacity for each county and city derived from six local revenue-generating "sources" and a statewide average "yield rate" for each. Our calculations reveal that between the 1989/90 and 1994/95 fiscal periods the City of Bedford's per capita revenue capacity increased by 27.2%, while during the same span of years the per capita revenue capacity of all Virginia's counties and cities collectively increased by 25.4%.<sup>14</sup> Data for FY1994/95 reveal, however, that the City's per capita revenue capacity was only 84.1% of the statewide average statistic.<sup>15</sup> Further, our statistical calculations for the latter period reveal

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<sup>12</sup>Virginia Employment Commission, "ES-202 Covered Employment and Wages File, Annual Average Employment" (unpublished data for 1980 and 1990), Apr. 1992.

<sup>13</sup>Virginia Employment Commission, "Covered Employment and Wages in Virginia by 2-Digit SIC Industry for Quarter Ending 3/31/94 - Bedford City."

<sup>14</sup>Commission on Local Government, **Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1989/90**, June 1992, Tables 1.1, 1.2; and **Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1989/90**, August 1997, Tables 1.1, 1.2.

<sup>15</sup>**Ibid.** In 1989/90 the City's per capita revenue capacity was 83.0% of the statewide figure.

that the City of Bedford could be characterized as an "above average stress" locality.<sup>16</sup>

With respect to the City of Bedford's prospect for future growth, current data concerning land use within the City are not available. A 1989 study revealed, however, that only 274 acres, or 6.3% of the City's total area was vacant and free of major environmental constraints (e.g., located on slopes exceeding 15% or situated within the 100-year flood plain).<sup>17</sup> Given the population growth that has occurred within the City since the 1990 Census, it is reasonable to conclude that the municipality's inventory of land generally suitable for development has been reduced further in the intervening years.<sup>18</sup>

In terms of projections of the City of Bedford's economic future and fiscal condition, we note that the City has calculated that it will confront a revenue shortfall of \$440,000 during FY1997/98. That shortfall is projected to increase to \$761,000 in FY1998/99, but declining to \$583,000 in FY2000/01.<sup>19</sup> Further, the City's current capital improvements program

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<sup>16</sup>Ibid., Table 6.3.

<sup>17</sup>City of Bedford, **Bedford Comprehensive Plan**. The 1989 land use statistics for the City did not include data for the area incorporated into the municipality as a result of the 1993 voluntary settlement with Bedford County.

<sup>18</sup>In addition, between 1990 and 1994, the City of Bedford issued 57 building permits for the construction or alteration of nonresidential structures within its current boundaries. Nonresidential structures include such uses as industrial, office, bank, and school buildings, service stations and repair garages, and churches. [Michael A. Spar, **Housing Units Authorized in Virginia's Counties and Cities, Annual, 1990 - 1994** (Charlottesville: Center for Public Service, University of Virginia)].

<sup>19</sup>**Joint Notice**, Appendix A, C; Jack A. Gross, City Manager, City of Bedford, letter to staff of Commission on Local Government, Sep. 5, 1997; and Barry W. Thompson, Assistant City Manager, City of Bedford,

identifies the need for approximately \$9.1 million in expenditures through FY2000/01 for various facilities, with the City anticipating the necessity of raising that entire amount from local sources.<sup>20</sup> The municipality currently contemplates that a portion of its anticipated capital expenditures will be financed through the issuance of general obligation bonds or the receipt of low interest loans, with reserve balances in its electric utility account being used to fund the remaining amount.<sup>21</sup>

### **COUNTY OF BEDFORD**

The County of Bedford was created in 1754 from territory formerly a part of Albemarle and Lunenburg Counties.<sup>22</sup> Between 1980 and 1990 the County's population increased from 34,927 to 45,656 persons, or by 30.7%.<sup>23</sup> The official population estimate for 1996 placed the County's population at 54,400, an increase of 19.2% since the preceding decennial census.<sup>24</sup> On the basis of its 1996 population and an area of 764 square

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communication with staff of Commission on Local Government, Oct. 1, 1997. The City's projections do not reflect the impact of the revenue sharing plan or other components of the proposed agreement.

<sup>20</sup>Gross, letter to staff of Commission on Local Government, Sep. 5, 1997; and Thompson, communication with staff of Commission on Local Government, Oct. 1, 1997.

<sup>21</sup>Thompson, communication with staff of Commission on Local Government, Oct. 1, 1997.

<sup>22</sup>**Dates of Origin of Virginia Counties and Municipalities.**

<sup>23</sup>**1980 Census of Population, Number of Inhabitants, Virginia**, Table 2; and **1990 Census of Population and Housing. Summary Population and Housing Characteristics, Virginia**, Table 1.

<sup>24</sup>"Population Estimates for Virginia Localities."

miles, the County has an overall population density of 71 persons per square mile.<sup>25</sup>

With respect to Bedford County's overall fiscal health, statistics indicate that between 1985 and 1995 the true value of real estate and public service corporation property in the County increased from \$1,252.2 million to \$2,908.3 million, or by 132.3%. This percentage growth in the County's principal revenue source was nearly 50% greater than that of the City (88.6%) and nearly one-third higher than that in the State generally (101.2%).<sup>26</sup> With respect to Bedford County's commercial base, taxable retail sales in the County rose by 118.8% between 1985 and 1995, exceeding substantially that for both the City (60.1%) and the State overall (66.9%).<sup>27</sup> Overall, these data indicate that the County has experienced considerable growth in its resource bases during the last decade.

Consistent with the statistics cited above, data developed by this Commission disclose that Bedford County experienced an increase in per capita revenue capacity between fiscal periods 1989/90 and 1994/95, exceeding the pattern for the Commonwealth, with its per capita revenue capacity measure increasing during that six-year period from 96.1% to

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<sup>25</sup>**1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 16. Bedford County is the fifth largest county in the Commonwealth in terms of land area.

<sup>26</sup>**Virginia Assessment/Sales Ratio Study, 1985; and Virginia Assessment/Sales Ratio Study, 1995**. On a per capita basis, the increases in the true value of real estate and public service corporation property in Bedford County and the State generally were 68.5% and 73.4%, respectively. (**Ibid.**)

<sup>27</sup>**Taxable Sales in Virginia Counties and Cities, Annual Reports, 1985 and 1995**. Between 1985 and 1995 the per capita increase in the County (58.8%) exceeded that in the State overall (43.8%).

102.6% of the statewide figure.<sup>28</sup> Further, the Commission's most recent comparative fiscal stress analysis found that in 1994/95 Bedford County experienced "below average stress" relative to all Virginia localities.<sup>29</sup>

In terms of the nature of its development, statistics indicate that Bedford County has experienced growth and diversification in its economic base in recent years. Between 1980 and 1990 the number of nonagricultural wage and salary positions in the County grew from 4,538 to 7,494, or by 65.1%.<sup>30</sup> Official estimates for March 1994 placed the number of nonagricultural wage and salary positions in the County at 8,227, a further increase of 9.8% since 1990.<sup>31</sup> Despite this growth in nonagricultural employment during that period, data collected in April 1990 reveal that two-thirds of the County's total civilian labor force (22,284 persons) either continued to be engaged in agricultural or forestal activities, was required to seek employment outside Bedford County, or was unemployed.<sup>32</sup> Indeed,

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<sup>28</sup>**Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1989/90**, Tables 1.1, 1.2; and **Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, 1994/95**, Tables 1.1, 1.2. Between 1989/90 and 1994/95 the growth in Bedford County's revenue capacity per capita (33.8%) exceeded that of the State overall (25.4%).

<sup>29</sup>**ibid.**, Table 6.3.

<sup>30</sup>"ES-202 Covered Employment and Wages File, Annual Average Employment."

<sup>31</sup>Virginia Employment Commission, "Covered Employment and Wages in Virginia by 2-Digit SIC Industry for Quarter Ending 3/31/94 - Bedford County."

<sup>32</sup>Virginia Employment Commission, **Labor Market Review**, Vol. 4, No. 4, Apr. 1991. The term "civilian labor force" is defined to include all individuals 16 years of age or over (exclusive of persons serving in the armed forces) within a specified geographic area who are either employed or unemployed. In 1990, 19,025 County residents traveled to jobs located outside the borders of Bedford County. (**Commuting Patterns of Virginia**

the evidence suggests that agricultural and forestal activities remain significant components of Bedford County's economic base. As of 1992, there were 1,227 farms in the County occupying a total of 200,507 acres (313 square miles), with the average market value of their agricultural products being \$20,740.<sup>33</sup> Further, 1991 data disclose that 276,133 acres (431 square miles) in Bedford County were classified as "timberland."<sup>34</sup> Thus, while the County has experienced growth in its nonagricultural wage and salary employment in recent years, its territory remains predominantly rural.

In regard to the fiscal outlook of Bedford County, projections of revenues and expenditures indicate that the County's combined accounts will maintain a positive balance in the immediate future. Projections show that in FY1997/98 County revenues will exceed expenditures by approximately \$5.7 million. This positive balance is projected to increase to

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**Workers: County and City Level for 1990.**) Of that amount, 71.2% were employed in positions located within the Cities of Roanoke, Lynchburg, or Bedford.

<sup>33</sup>U. S. Department of Commerce, Bureau of the Census, **1992 Census of Agriculture, Virginia**, Table 1, p. 163. The average market value of agricultural products sold by farms in the State collectively was \$48,694, or more than twice that for farms in Bedford County. (*Ibid.*, Table 1, p. 162.)

<sup>34</sup>U. S. Department of Agriculture, Forest Service, **Forest Statistics for the Southern Piedmont of Virginia, 1991**, Table 1. The Forest Service defines "timberland" as property being at least 16.7% stocked by forest trees of any size, or formerly having had such tree cover and not currently developed for nonforest use, capable of producing 20 cubic feet of industrial wood per acre per year and not withdrawn from timber utilization by legislative action. Such property may also be included in the Census Bureau's definition of "farm land." In 1991, approximately 17,000 acres of timberland are located in the Thomas Jefferson National Forest or are State or local-government owned. (*Ibid.*, Table 2.)

approximately \$12.1 million by FY2000/01.<sup>35</sup> Although the County's current capital program projects total expenditures of approximately \$16.4 million through FY2000/01 for needed improvements, the evidence suggests that the County can readily address its fiscal concerns with its prospective resources.<sup>36</sup>

## **REVENUE-SHARING AREAS**

### **County Revenue-Sharing Areas**

Under the terms of the proposed agreement, Bedford County will share with the City local tax revenues generated by existing and future development in four separate parcels, identified by the parties as the 460 East, 460 West, and 122 South areas and the Little Otter Business Park, that are located in the County adjacent to the municipality's current boundaries.<sup>37</sup> Those parcels, which are formally designated in the

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<sup>35</sup>**Joint Notice**, Appendix A, C. The County projections do not include the impact of the proposed revenue-sharing component of the agreement or other elements of the accord.

<sup>36</sup>**Ibid.**, Appendix D; and William C. Rolfe, County Administrator, County of Bedford, letter to staff of Commission on Local Government, Sep. 18, 1997.

<sup>37</sup>The Commission notes that the map of the Little Otter Business Park included as an attachment to the proposed agreement indicates that the property is separated from the northeastern boundary of the City by several intervening parcels that are not included as part of the Economic Development Areas and thus, not subject to the provisions of the agreement. (**Growth-Sharing Agreement**, Attachment A.) In drafting the maps of that area, the parties intended to include a portion of State Route 221 between the City boundaries and the Little Otter Business Park within the Economic Development Areas, but the connection was inadvertently omitted. (Gross and Rolfe letter to staff of Commission on Local Government, Sep. 12, 1997.)

agreement as the "Economic Development Areas," collectively encompass 1.6 square miles of County territory.<sup>38</sup>

In terms of current development, the four Economic Development Areas collectively contain several residential concentrations, a shopping center and other commercial establishments, an office complex, two industrial operations, and the Virginia Department of Transportation's Bedford Residency Office. Other portions of those areas have significant potential for future development due to the presence of vacant property adjacent to U. S. Highways 460 and 221 and State Route 122, three major arterial highways that transit Bedford County. Moreover, Bedford County has identified the territory surrounding the City of Bedford, which includes each of the Economic Development Areas, as a major focal point for future growth in the County, thereby denoting its perceived and intended economic development potential.<sup>39</sup>

To this point, however, growth in the Economic Development Areas has been restricted by the limited availability of public water and sewerage which is provided by the City of Bedford. Currently, municipal water service is available only in portions of the 460 East, and 122 South areas, and to the Little Otter Business Park.<sup>40</sup> Further, central sewerage service is limited to

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<sup>38</sup>**Joint Notice**, pp. 50-51. Attachment A of the **Growth-Sharing Agreement** contains maps of the four County revenue-sharing areas.

<sup>39</sup>County of Bedford, **Bedford County Comprehensive Plan**, 1988. A 1990 amendment to the County's comprehensive plan expanded the growth area adjacent to the City to include all property located within a radius of approximately 1.5 miles of the municipality.

<sup>40</sup>**Joint Notice**, p. 50.

privately-owned force mains in the 460 East and 122 South areas.<sup>41</sup> The provision of utility service to additional properties in the Economic Development Areas, as well as other properties outside the present municipal boundaries, has been restricted by a City moratorium on new water and sewer connections beyond its corporate limits.<sup>42</sup>

### **City Revenue-Sharing Area**

The proposed agreement also contains a provision that calls for the City of Bedford to share with the County 50% of the local tax revenues generated from a facility located within the municipality and identified in the accord as the City Industrial Park. That property, which is situated in the eastern portion of the City, contains approximately 110 acres, all in municipal ownership.<sup>43</sup> According to a City official, the park is the largest undeveloped parcel zoned appropriately for industrial activity remaining in the City of Bedford.<sup>44</sup> Although the industrial park is currently vacant and still undergoing construction, the availability of municipal water and sewer service and access to Independence Boulevard, a major City thoroughfare which connects U. S. Highways 460 and 221, make it an attractive location for future industrial and commercial development.

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<sup>41</sup>**Ibid.** The private lines in the two Economic Development Areas connect to the City's collection system. (Thompson, communication with staff of Commission on Local Government, Oct. 14, 1997.)

<sup>42</sup>In 1989 the City placed a moratorium on all new water and sewer connections to municipal utility lines located in the County. Any connections to those lines that have occurred since that date have been authorized by the Bedford City Council on a case-by-case basis or pursuant to agreement with Bedford County.

<sup>43</sup>**Joint Notice**, p. 51.

<sup>44</sup>Gross, presentation to Commission on Local Government, Aug. 18, 1997.

## **STANDARDS FOR REVIEW**

As indicated previously, the Commission on Local Government is charged with reviewing proposed interlocal agreements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia for the purpose of determining whether such proposals are "in the best interest of the Commonwealth." In our judgment, the State's interest in this and other proposed interlocal agreements is fundamentally the preservation and promotion of the general viability of the affected localities. In this instance, the Commission is required to review a proposed agreement which provides for (1) interlocal revenue-sharing arrangements, (2) the extension of City water and sewer utilities into specified areas of the County, and (3) cooperation between the two jurisdictions with respect to economic development. A proper analysis of the proposed Bedford - Bedford County agreement requires not merely consideration of its immediate ramifications, but an effort to determine its future consequences as well.

### **REVENUE SHARING PROVISIONS**

The proposed agreement establishes an interlocal revenue-sharing plan between the City of Bedford and Bedford County. One component of that plan provides that Bedford County will transfer to the City, in perpetuity, 50% of certain local tax revenues collected within the Economic Development Areas located in the County.<sup>45</sup> Those Economic Development Areas, as noted previously, have experienced commercial and industrial development over the past two decades. Further, all of the property

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<sup>45</sup>**Growth-Sharing Agreement**, Section 2.01. Under the terms of the proposed agreement, the County will share with the City all local-source revenues derived from the Economic Development Areas except the proceeds from taxes dedicated to a specific purpose pursuant to State or federal statutes (e.g., 911 taxes). The agreement also requires the County to share with the City revenues collected in those areas from taxes that may be imposed in the future.

surrounding the City, including the County revenue-sharing areas, has been designated by Bedford County as a focal point for additional growth in the future. The development potential of the Economic Development Areas is indicated by County calculations that show that the City will receive approximately \$176,500 in FY1997/98 from the economic growth-sharing plan, if the agreement is in effect during the current fiscal year. Based on specified assumptions, the City's receipts from the revenue sharing arrangement will increase to approximately \$206,000 by FY2001/02.<sup>46</sup> The FY2001/02 payment would represent an amount equivalent to approximately 3.8% of the City's total local-source tax receipts in FY1995/96.<sup>47</sup> Thus, as the Economic Development Areas experience growth in the future, the County's revenue-sharing payment can be expected to increase in significance to the City.

The City's extension of its utilities to the four Economic Development Areas will facilitate the County's economic growth and an increase in its local-source revenues. While the County will share with the City revenues derived from those areas, it will benefit substantially from the collaborative effort. Projections indicate that the fiscal impact on the County of its contribution to the City under the terms of the accord will be extremely modest. As noted above, the revenue-sharing plan calls for the County to transfer approximately \$206,000 to the City by FY2001/02. The projected payment to the City in that fiscal period would constitute only 0.8% of the

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<sup>46</sup>**Joint Notice**, p. 54. A representative for the City of Bedford has expressed concurrence with the County's calculations. (Gross, letter to staff of Commission on Local Government, Sep. 5, 1997.)

<sup>47</sup>Firebaugh and Berry, Inc., **City of Bedford, Virginia, Financial Statements, June 30, 1996**, Schedule 1. In FY1996/96, the City revenue from local sources was approximately \$5.4 million.

County's total local-source revenues for FY1995/96.<sup>48</sup> Indeed, a County official has indicated that transfers to the City will be easily absorbed by anticipated growth in County revenues.<sup>49</sup> While these projections are subject to change with future events and circumstances, the evidence suggests that the proposed revenue-sharing plan will result in a net increase in County revenue rather than imposing a net fiscal cost on that jurisdiction.

Moreover, any transfer of local resources from the County to the City will be offset, in part, by the provision in the interlocal accord which requires the City to contribute in perpetuity to the County an amount equal to 50% of the local taxes collected, with certain specified exceptions, within the municipal industrial park.<sup>50</sup> Since that facility is currently vacant and still under development, there is no current basis for estimating the City's payment to the County.<sup>51</sup> However, as stated previously, the City Industrial Park is considered to have significant development potential by virtue of its access to transportation facilities and the availability of central water and sewerage. Upon its completion, that facility will, in our judgment, attract

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<sup>48</sup>County of Bedford, **Comprehensive Annual Financial Report, June 30, 1996**, Schedule 1. For the 1995/96 fiscal period Bedford County's total local source revenues were approximately \$25 million.

<sup>49</sup>Rolfe, letter to staff of Commission on Local Government, Sep. 18, 1997.

<sup>50</sup>**Growth-Sharing Agreement**, Section 2.01. As is the case with the County, the proposed agreement calls for the City to share all local-source revenues collected from the municipal industrial facility except the proceeds from taxes dedicated to a specific purpose pursuant to State or federal statutes (e.g., 911 taxes). The agreement also requires the City to share with the County revenues collected in those areas from taxes that may be imposed in the future.

<sup>51</sup>Rolfe, presentation to Commission on Local Government, Aug. 18, 1997.

significant development which will redound to the benefit of both jurisdictions.

As an alternative to the bilateral transfer of funds to be established initially under the terms of the proposed agreement, that instrument contains a provision which would allow the incorporation of the County's four Economic Development Areas into the City with a continuance of the revenue-sharing arrangement.<sup>52</sup> If the Board of Supervisors opts to discontinue to appropriate the County's payment, the City would be permitted to annex by ordinance any portions of the Economic Development Areas that are served by municipal water and sewerage.<sup>53</sup> Any property incorporated into the City pursuant to this authority would remain subject to the growth-sharing plan, and thus, the County would continue to receive one-half of the local revenue from the annexed areas.<sup>54</sup> Further, based on the current differential in the tax rates and fees schedules of the two jurisdictions, property incorporated into the City under this provision would

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<sup>52</sup>**Growth-Sharing Agreement**, Sec. 2.01. Both jurisdictions are required to transmit their revenue-sharing payments within 90 days of the due date of the particular tax, or time of collection of the instrument, whichever is later.

<sup>53</sup>As noted in a prior section of this report, the Little Otter Business Park is not contiguous to the City of Bedford, but the parties have intended for the Economic Development Area containing that facility to be physically connected to the City by a portion of State Route 221. If conditions warrant annexation of this property by the City, the resulting municipal boundary would be a departure from the norm in the Commonwealth. The Commission recognizes that while this situation is not ideal, it addresses the needs of the City and County in this instance and is not injurious to the interests of the Commonwealth.

<sup>54</sup>**Growth-Sharing Agreement**, Sec. 2.01.

generate more revenue for the County than if such property had remained within the County.<sup>55</sup>

### **UTILITY PROVISIONS**

Another element of the proposed agreement which will have a significant impact on the City of Bedford and Bedford County is the set of provisions which address utility concerns in the Economic Development Areas. Under the terms of the proposed accord, the City has agreed to dedicate one-half of its receipts from the revenue-sharing plan to the installation of new water and sewer facilities in the Economic Development Areas.<sup>56</sup> Based upon previously cited County estimates, the City would have available approximately \$88,250 in FY1997/98 for the utility improvements in those areas, with that amount projected to increase to \$103,000 by FY2001/02.<sup>57</sup> The proposed agreement specifies that the U. S. 460 East area will be the first to receive the additional lines, with the priorities and schedule for future extensions to be determined jointly by the City and the

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<sup>55</sup>For example, in 1996 the nominal real property tax rate for the City was \$0.71 per \$100 of assessed value, while the rate for the County was \$0.49 per \$100 of assessed value. (Weldon Cooper Center for Public Service, **1996 Tax Rates, Virginia's Cities, Counties, and Selected Towns.**) Further, unlike the County, the City of Bedford levies meals and business, professional and occupational license taxes.

<sup>56</sup>**Growth-Sharing Agreement**, Sec. 1.02(B). Under the terms of the proposed agreement, the City's financial obligation to provide water and sewer service to the Economic Development Areas is limited to those funds provided by the revenue-sharing agreement and contributions from developers in those areas. Further, the agreement only requires the City to extend one major water and sewer trunkline into each Economic Development Area. Any water and sewer lines installed to serve individual properties in the Economic Development Areas must be constructed to municipal standards and dedicated to the City for maintenance purposes.

<sup>57</sup>**Joint Notice**, p. 54.

County.<sup>58</sup> The availability of public water supply and sewage treatment will be a major factor in promoting the future growth of the four revenue-sharing areas in the County.

In addition to the future extension of City water and sewer lines into the Economic Development Areas, the agreement also calls for the City to lift its current moratorium on new connections to existing municipal utility lines for commercial and industrial users in those areas.<sup>59</sup> The current moratorium on new nonresident water and sewer connections was established by the City in order to provide it sufficient time to upgrade its utility systems to meet growing demand and to comply with new environmental regulations.<sup>60</sup> While almost all of the planned utility improvements have been completed, the moratorium on nonresident connections has been kept in place, with exceptions being permitted only in certain circumstances.<sup>61</sup> The general bar on additional nonresident connections, according to City officials, has been maintained by the municipality due to the fact that the City has been limited, as a consequence

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<sup>58</sup>**Growth-Sharing Agreement**, Sec. 1.02

<sup>59</sup>**Ibid.**, Sec. 1.02(A). Following the effective date of the proposed agreement, the City will permit commercial and industrial users in the Economic Development Areas to connect the municipal utility lines in those areas if the City has the capacity to serve the projected use, the connections are made in accordance with municipal policy, and the needed utility lines are available to serve the site.

<sup>60</sup>Thompson, communication with staff of Commission on Local Government, Oct. 7, 1997.

<sup>61</sup>For example, a 1992 interlocal agreement between the City and Bedford County authorized 108 residential and 2 commercial connections to municipal water lines in the County. (See **Voluntary Settlement of Annexation and Utility Issues Between the City of Bedford and the County of Bedford**, November 25, 1992.)

of a previous interlocal agreement to a nonresident surcharge of only 15%.<sup>62</sup> The modest nature of that surcharge, City officials have concluded, would place an inordinate burden on municipal residents for the extension of its utility service in the County.<sup>63</sup> As a consequence of this arrangement and other considerations, the City has been required to subsidize its Water and Sewer Fund with transfers from the General Fund for many years.<sup>64</sup> Since additional nonresident connections will provide the City with only modest increases in utility revenues, the termination of the moratorium for commercial and industrial customers in the Economic Development Areas is a significant contribution by the City for the promotion of growth in those areas.<sup>65</sup>

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<sup>62</sup>An agreement entered into by the City and County in 1982 authorized the City to install, operate, and maintain five wells and other water system appurtenances in the County. In return, the City agreed to a limit on nonresident user fees. It should be noted that the 1992 voluntary settlement agreement between the City and the County permitted incremental increases to municipal water rates until FY1997/98 upon appropriate notice to the County, with the limit on such surcharges being totally eliminated by FY1998/99. (**Voluntary Settlement of Annexation and Utility Issues Between the City of Bedford and the County of Bedford.**) According to a City official, those increases were not effected since water rate increases for County users without a corresponding increase for City residents would place an undue hardship on nonresident customers. (Gross, communication with staff of Commission on Local Government, Oct. 8, 1997.)

<sup>63</sup>Gross, communication with staff of Commission on Local Government, Oct. 8, 1997

<sup>64</sup>For FY1995/96, the City transferred approximately \$127,000 from its general fund to the water and sewer fund. It should be noted that during that same period, approximately \$1.1 million was transferred from the City's electric fund to support its general fund. (Thompson, communication with staff of Commission on Local Government, Oct. 7, 1997.)

<sup>65</sup>As further evidence of its commitment to promote development in the Economic Development Areas, the City has authorized certain properties in the 460 East Area to connect to municipal lines prior to final approval of agreement by the special three-judge court. (**Growth-Sharing Agreement,**

In order to utilize to the maximum extent the available utility resources to promote commercial and industrial activity in the Economic Development Areas, current residents of those areas will be permitted to connect to municipal lines only in instances of the failure of the individual well or septic systems serving their residences.<sup>66</sup> To that end, Bedford County has agreed to make appropriate changes to its land development control ordinances applicable within the Economic Development Areas.<sup>67</sup>

Another component of the proposed agreement addresses prospective water and sewer needs in the City and the County. That provision calls for both jurisdictions, with the participation of the Bedford County Public Service Authority, to collaborate on the development of a strategic plan for future water and sewer facilities in the City and the central portion of Bedford County.<sup>68</sup> While the direct benefit of this joint effort may be expected to accrue primarily to residents and businesses located beyond current municipal boundaries, this cooperative effort could also assist the

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Sec 4.02.)

<sup>66</sup>***Ibid.***, Sec. 1.02(C). In addition, the residential unit must have been in existence on June 2, 1997, the date the City and County initially approved the agreement.

<sup>67</sup>Gross and Rolfe, letter to staff of Commission on Local Government, Sep. 12, 1997. The actions contemplated by the County include the adoption of a traditional zoning ordinance that would allow only commercial and industrial development in the Economic Development Areas. At the present time the County has a development control program known as the Land Use Guidance System. Under that system, uses are permitted based upon a "Growth Guidance Assessment" process which is designed to determine whether proposed development is consistent with goals and objectives in the County's comprehensive plan.

<sup>68</sup>**Growth-Sharing Agreement**, Sec. 1.01.

City in addressing its major utility capital improvement needs in the future.<sup>69</sup>

The City's utility commitments to the Economic Development Areas under the proposed agreement will increase the service burdens on the municipal water and sewerage operations. In terms of water, since the City's water filtration plant has a rated capacity of 3.0 million gallons per day (MGD) and since the municipal distribution system presently consumes approximately 1.2 MGD, the municipal system currently retains an unused reserve of approximately 1.8 MGD.<sup>70</sup> That reserve should enable the City to address adequately its added responsibility for water. In addition, the City's water lines and storage capacity are sufficient to provide appropriate pressure and fire flow to the Economic Development Areas.<sup>71</sup>

With respect to sewerage, the City owns and operates a sewage treatment plant that has a rated capacity of 1.5 MGD. Since the plant currently treats an average daily flow of 1.26 MGD, it retains an average

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<sup>69</sup>The City has indicated that it plans to conduct a comprehensive study of its water and sewer system in the near future. The results of those studies may reveal that the City confronts major utility improvements in the future.

<sup>70</sup>**Joint Notice**, p. 52. The City's principal raw water source is the Stoney Creek Reservoir which has a safe yield of 1.85 MGD. As additional emergency sources, the City has a water intake on Sheep Creek which can provide 1.0 MGD, and five wells which have a collective pumping capacity of 0.2 MGD. The latter facilities, however, have been placed out of service and would require modification to the City's pumping station prior to being used.

<sup>71</sup>City water distribution lines currently serve 460 East, 221 South, and Little Otter Business Park revenue-sharing areas, and a municipal water line is located on the border between the present City limits and the 460 West Economic Development Area. (**Ibid.**, p. 50.) In terms of storage facilities, the City has three storage tanks which collectively hold 2.95 million gallons of treated water. (**Ibid.** p. 52.)

excess capacity of approximately 0.24 MGD, or 16% of its current capacity.<sup>72</sup> In order to comply with new wastewater treatment standards and to have adequate capacity to serve new commercial connections in the Economic Development Areas, the City is currently in the process of increasing the sewage plant's capacity to 2.0 MGD, with the upgrade to be completed by June 1999.<sup>73</sup> In view of the current excess capacity in the municipal treatment plant, as well as planned improvements to that facility, in our judgment, the City can meet the sewerage needs of the Economic Development Areas in the years immediately ahead.<sup>74</sup>

The evidence indicates that the utility provisions of the proposed agreement will not impose any unmanageable operational or fiscal burdens on the City of Bedford. Indeed, both localities will benefit from the cooperative planning for the future development of water and sewer infrastructure in the environs of the City of Bedford. Further, the availability of central water and sewerage in the Economic Development Areas will be an important element in the attraction of commercial and industrial firms to those areas which will provide additional financial resources for both jurisdictions.

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<sup>72</sup>**Ibid.**

<sup>73</sup>**Ibid.**; and Thompson, communication with staff of Commission on Local Government, Oct. 14, 1997.

<sup>74</sup>The sewerage available in the 460 East Area is privately-owned and only serves commercial property immediately adjacent to the City. The sewage force main that transits the 221 South Area is also owned by a private concern and only serves a business located beyond the borders of that area. (Thompson, communication with staff of Commission on Local Government, Oct. 14, 1997.) As is the case with water, a municipal sewer line is located on the border between the present City limits and the 460 West Economic Development Area, and City sewerage is located approximately 1.2 miles from the Little Otter Business Park. (**Joint Notice**, p. 50.)

## **ECONOMIC DEVELOPMENT PROVISIONS**

The third component of the proposed agreement with major implications for both jurisdictions is the set of provisions which commit the City of Bedford and Bedford County to collaboration on economic development concerns. Under the terms of the accord, the City and County will create and fund jointly an authority to promote future commercial and industrial growth in the Economic Development Areas and designated portions of the City.<sup>75</sup> The new entity, identified in the agreement as the Joint Industrial Development Authority, will assist both localities in the attraction and retention of business concerns. The agreement also calls for the City to contribute to the joint authority a portion of the revenue it derives from the sale of municipal electricity to commercial and industrial customers in the Economic Development Areas.<sup>76</sup> Based upon the formula contained in the proposed agreement, the City has estimated that its initial payment to the Authority will be approximately \$7,300.<sup>77</sup> As the County Economic Development Areas develop in the future, however, this supplementary source of funding for the joint authority will grow in significance.

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<sup>75</sup>**Growth-Sharing Agreement**, Secs 3.01, 3.02. The agreement calls for the joint authority to have the same powers and responsibilities as other authorities pursuant to the Industrial Development and Revenue Bond Act (Chapter 33, Title 15.1, Code of Virginia).

<sup>76</sup>**Ibid.**, Sec. 2.02. The City's payment to the proposed authority from electricity sales in the Economic Development Areas will be in addition to the municipality's obligation to fund jointly the capital and operating expenses of the new entity.

<sup>77</sup>**Ibid.**, Attachment B. The agreement commits the City to transferring to the Joint Industrial Development Authority 50% of the net income from electricity sales to business concerns in the four County revenue-sharing areas.

The economic development provisions of the proposed accord also include two additional benefits which affect the interest of the City of Bedford. First, Bedford County has pledged to reimburse the City up to \$425,000 for expenditures incurred in the development of the municipal industrial park prior to the final approval of this proposed agreement by the special three-judge court.<sup>78</sup> Second, following the effective date of the agreement, the City will transfer to the authority ownership and management of the municipal industrial park, and the authority will concurrently assume all obligations of the City with respect to that facility.<sup>79</sup> These provisions will relieve the City of a substantial financial liability.

#### **INTEREST OF THE COMMONWEALTH**

The paramount interest of the State in this proposed agreement and in the resolution of all other interlocal issues subject to the Commission's review is, in our judgment, the preservation and the promotion of the viability of the affected local governments. Clearly, the proposed agreement will increase the flow of revenues to the City of Bedford and Bedford County. In addition, utility arrangements and collaboration on industrial development issues will contribute to the social and economic vitality of the

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<sup>78</sup>**Ibid.**, Sec. 4.02. Under the terms of the proposed agreement, the County will reimburse the City for all expenditures for the industrial facility which were incurred up to June 2, 1997, the date of the initial approval of the accord by the parties. Subsequent to that date and until June 30, 1998, the County will share equally in any additional development costs for the City Industrial Park. The City has estimated that it will receive approximately \$316,000 from the County for municipal expenditures incurred through FY1997/98. (**Ibid.**, Attachment D.) If the agreement is not approved by the special three-judge court, all County payments under this provision will be treated as a loan to the City.

<sup>79</sup>**Ibid.**, Sec. 3.05. Upon transfer of the municipal industrial park to the Joint Industrial Development Authority, all prior expenditures made by the City and County for that facility will be considered as contributions of both localities to the operation of the authority.

two localities. Moreover, since the proposed agreement addresses a series of issues of fundamental concern to both jurisdictions, its adoption can provide an impetus for additional interlocal cooperation between the City and County. While the above-cited elements of the proposed agreement are promotive of the viability of the two jurisdictions, the interest of the Commonwealth requires, in our view, a modification to that instrument.

### **FINDINGS AND RECOMMENDATIONS**

While this Commission recognizes the positive provisions of the proposed agreement, we are unable to recommend the court's approval of the accord in its present form. In our judgment, the following amendment is essential for a determination that the proposed agreement is "in the best interest of the Commonwealth."

### **APPLICATION OF AGREEMENT TO SUCCESSOR ENTITIES**

Section 5.01 of the proposed agreement states that the instrument, following its affirmation by the reviewing court, shall be binding upon the governing bodies of the two jurisdictions and "upon any successors to the City or County." We recommend that this provision be amended to acknowledge explicitly that if the City of Bedford at some time in the future reverts to town status or to some other form of government similarly structured as a constituent element of Bedford County, the revenue-sharing arrangement shall be subject to appropriate adjustment based on the overlay of taxing authority and the redistribution of service responsibility.<sup>80</sup> In brief,

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<sup>80</sup>A previous proposal considered by the electorate in the two jurisdictions would have converted the City of Bedford to a "shire," with that entity being a constituent element of Bedford County. Under the terms of a 1995 consolidation agreement between the City and County the Shire of Bedford would have had an elected governing body and "the same rights, powers and obligations as towns exercise in counties, and such other rights, powers and obligations as may be granted by general law or by charter."

this agreement should not, in our judgment, mandate the application of the terms of the currently proposed revenue-sharing arrangement on successor entities with distinctly different taxing authority and service responsibility.

If the City of Bedford opts at some point in the future to exercise its authority to revert to town status, or reconstitutes itself by virtue of other arrangements as a constituent element of Bedford County all of the property within that reconstituted jurisdiction would be placed on the tax rolls of Bedford County and subject in full to the tax levies of that locality. Hence, the revenue-sharing provisions calling for a contribution by the reconstituted municipality of its own property tax collections to Bedford County would be inappropriate. Further, the reversion of the City of Bedford to town status would require Bedford County to assume full responsibility of providing educational, social services, health, mental health, electoral, and other services to the residents of the former city. These modifications in taxing authority and service provision suggest the need to restructure the revenue-sharing provision in the proposed agreement in the event of the transformation of the City of Bedford to a constituent element of Bedford County. The reversion of the City of Bedford to town or other dependent status, however, should not affect collaboration between the two jurisdictions regarding the joint economic development program proposed in the agreement. The interests of the Commonwealth, in our view, mandates the modification of the revenue-sharing provision of the proposed agreement should the City of Bedford become a constituent element of Bedford County.

#### **ADDITIONAL PROPOSAL**

While the adoption of the amendment specified above would enable this Commission to recommend the court's approval of the agreement, there

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[Sec. 15.1-1135(20). Code of Va.]

is an additional proposal which we wish to suggest to the City of Bedford. The following section of this report reviews that proposal.

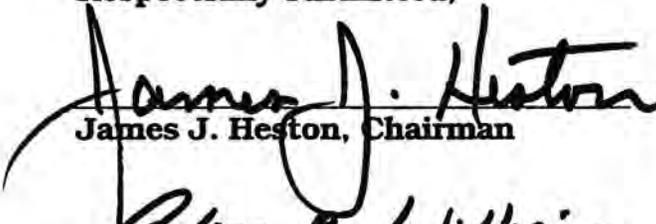
### **Fiscal Management**

During the Commission's proceedings, the City of Bedford indicated that it has been required to address a continuing deficit in its water and sewer account by annual transfers from its general fund. Reliance on general fund transfers to supplement services which should be supported by user fees and charges should, in our view, constitute only an interim solution to a locality's fiscal concerns. Further, such transfers should not be permitted to delay essential adjustments in water and sewer user fees. Therefore, we recommend that the City take appropriate steps to have its enterprise activity become self-supporting.

### **CONCLUDING COMMENT**

The Commission on Local Government acknowledges the considerable effort devoted by the officials of the City of Bedford and Bedford County to the negotiation of the agreement before us. The agreement reflects a notable commitment by the leadership of both jurisdictions to address in a collaborative fashion the concerns of their localities and the needs of their residents. Moreover, the inclusion of provisions in the agreement which call for continued cooperation between the parties in the areas of economic development and the reconciliation of long-term utility issues is founded upon recognition of the social and economic interdependence of the City and County. We commend the officials of the two jurisdictions for their public leadership and for the interlocal agreement which they have negotiated.

Respectfully submitted,

  
James J. Heston, Chairman

  
Geline B. Williams, Vice Chairman

  
William S. Hubbard

  
Frank Raflo

**JOINT ECONOMIC DEVELOPMENT AND GROWTH SHARING AGREEMENT**

This Agreement, made and entered into this 2nd day of June, 1997 by and between **BEDFORD COUNTY, VIRGINIA** (the "**County**"), party of the first part; and **THE CITY OF BEDFORD, VIRGINIA** (herein referred to as the "**City**"), party of the second part.

**RECITALS**

1. The County and the City historically have provided many public services for their respective citizens through joint contracts and other cooperative arrangements, such jointly provided services including the Court and Commonwealth Attorney's services, welfare, health, public schools, and regional libraries.

2. The Board of Supervisors of Bedford County (the "**Board**") and the City Council for the City of Bedford (the "**City Council**") are aware that the economic vitality of the City of Bedford and the immediately adjoining areas of Bedford County are tied together and that economic and industrial expansion in either the City or the adjoining areas of the County provides increased employment opportunities and economic vitality for the citizens of both jurisdictions.

3. The availability of public water and public sewer services is a particularly critical factor in the commercial and industrial development of an area, and the Board and the City Council both perceive that the unavailability of these services in the central area of the County surrounding the City may have restricted development which would otherwise have occurred in the area of the County which adjoins the City.

4. The Board and the City Council have determined that desirable commercial and industrial development in the City and the immediate surrounding areas of the County can only be

accomplished successfully through joint efforts to develop industrial parks and other economic development projects, through coordination and joint efforts to provide utility services for such projects, and through the sharing between the two jurisdictions of taxes and revenues generated by such projects.

5. As a result of discussions between the Board and the City Council, the County and the City have agreed jointly to develop and promote for industrial and commercial growth certain designated areas which consist of (i) an Industrial Park site on property within the City near Independence Boulevard and (ii) four areas of the County immediately outside the City limits. These "Economic Development Areas" are described specifically in "Attachment A." which includes maps of each area.

Now, therefore, in consideration of the recitals herein and mutual covenants, policies and agreements herein contained, and for the purpose of joint economic development and distributing equitably the revenues produced from such projects, the parties agree as follows:

## ARTICLE I

### PUBLIC WATER AND SEWER UTILITIES

**Section 1.01. Water and Sewer Development.** The City and County covenant and agree to begin immediate negotiations for the formulation of a strategic long range plan for future water and sewer development in the City and the central area of Bedford County. The City and County agree that the Bedford County Public Service Authority shall participate in all such negotiations.

**Section 1.02. Agreement to Extend Sewer and Water Lines.** The City has a moratorium on additional connections to its water and sewer systems outside the City limits, and the City agrees

agrees to modify its moratorium in order to provide sewer and water connections for commercial and industrial development in the economic development areas located within the County in accordance with the provisions set forth hereinbelow.

The City represents to the best of its knowledge its water treatment plant has capacity to provide anticipated water needs within the economic development areas, and the City represents that it is proceeding at a cost of approximately \$4.5 million to upgrade its existing sewage treatment plant in order to provide an additional capacity of 500,000 gallons per day.

The City agrees to extend water and sewer utility services into the Economic Development areas of the County by extending existing trunklines into the County as funds are available and by allowing connections under the following terms and conditions:

(A) Connections to City water and sewer systems. As soon as the parties have obtained Statutory approval of this agreement as set forth in Article IV, upon application by owners of property within the economic development areas the City shall allow immediate sewer and water connections for any industrial or commercial developments within those areas provided; (i) lines are available to provide service to the site or the application includes provisions for making such service available to the property (ii) the City has capacity to serve the projected use; and (iii) such connection is made in accordance with other City policies, including payment of fees and such other terms as would be required for utility connections to properties within the City.

(B) Extension of City Sewer and Water Pipelines. The parties agree that the existing City Water and Sewer Pipelines shall be extended in order to provide water and sewer services within the

four County Economic Development areas by extending trunk lines from existing facilities into each respective development area.

The priorities and schedules for truckline extensions will be determined jointly by the City Council and Board of Supervisors and may be amended from time to time based upon the need for utilities for commercial and industrial development within the specific areas and based upon the projected tax revenues to be shared from such development. The parties in setting priorities for truckline extensions shall give due consideration to engineering studies and recommendations. Construction shall commence as funds are available, it being anticipated that funds for construction will be accumulated only as long as necessary to provide for efficient construction of trunk lines.

The parties agree that the first priority for truckline extension shall be from the City limits east along U. S. Route 460 in order to provide service as far as the Virginia Department of Transportation (VDOT) offices. In order to fund the costs of expanding the City water and sewer systems and to provide truckline service into the four economic development areas, the City agrees to set aside and to expend for such development costs 50% of the tax revenues derived by the City from the Economic Development Areas located in the County which are paid pursuant to the provisions of this Agreement (until one main truckline has been completed to serve each area). The City's financial obligation to provide for extension of its services into the Economic Development Areas of the County shall be limited to funding from the shared tax revenues and to contributions designated for such purpose from other non-City sources, including, but not limited to, private developers. The costs of extension of services shall include the cost of engineering and feasibility studies as well as actual costs of construction in installation and new equipment within and without

the City limits, including the installation of pump stations, the laying of new pipes, and the replacement of existing pipes, and such other expenses as may be required in order to provide required trunk lines and services.

The parties contemplate that there will be an initial engineering study determining the requirements and costs in order to extend the water and sewer lines along the Route 460 corridor eastwardly to the VDOT office building. The parties contemplate that additional engineering studies and feasibility reports will be required in order to set priorities and to schedule extensions into the other Economic Development Areas.

(C) Limited Residential Connections. Notwithstanding the above limitation of additional sewer and water connections outside the City limits to commercial and industrial developments only, the City agrees to use its best efforts to provide connections to residential buildings located within the County Economic Development Areas which are existing as of the date of this Agreement should there be a failure of the private sewer or water systems serving the specific residence and if City connections are available under existing City policies..

(D) City Policies. All extensions of sewer and water utilities hereunder shall be in accordance with the City of Bedford policies and specifications for providing of such services within the City limits as such policies may be amended from time to time. (This includes all industrial waste water pretreatment requirements.) All pipelines shall become part of the City utility systems, and the City will be responsible for collection of fees and charges and for the maintenance and repair of the lines. Requested utility connections shall be subject to availability of capacity and subject to terms of any City, County, State or Federal regulations.

The City's obligation to extend water and sewer services and to continue to provide such services shall be conditioned upon enactment by the County of ordinances and regulations necessary to implement in the County the City's water and sewer policies. (Construction specifications shall be submitted for review and shall be approved by the City before construction commences.)

## ARTICLE II

### REVENUE SHARING OF ECONOMIC DEVELOPMENT AND INDUSTRIAL PARK PROJECTS

**Section 2.01. Sharing of Tax Revenues.** The County subject to annual appropriation and the City agree in perpetuity to share equally all local taxes on real estate, personal property and machinery and tools, merchant's capital, sales and use taxes, and all business, professional and occupational taxation and any other taxes now and hereafter imposed or generated in respect to properties and activities within the Economic Development Areas (including the Industrial Park site located within the City and the four designated areas located within the County.) Such shared taxes shall not include those taxes which pursuant to State or Federal Statutes are dedicated for a specific use or for which a specific use is prescribed (e.g., 911 tax). Shared taxes shall be transmitted by the collecting jurisdiction within 90 days of the due date or of the time of collection, whichever occurs later.

If the County fails to pay to the City an amount equal to one-half of such taxes collected within 90 days of collection and such default continues for a period of 90 days after notice by the City, then the City may incorporate within its boundaries any portions of the Economic Development

Area for which the City is providing water and sewer services, which right shall be exercised by the adoption of an ordinance by the City providing for a change of boundaries. Incorporation of the affected Economic Development Area shall take effect immediately upon the date specified in the ordinance without any further action by either jurisdiction. (This provision is to assure the sharing of tax revenues should the Board of Supervisors not appropriate sufficient funds to result in such tax sharing, it being understood that the sharing of tax revenues by the County is subject to appropriation by the Board of Supervisors under State law. ) It is understood that revenues within any such area which may become incorporated within the City limits under any statute or agreement thereafter shall be shared by the City with the County under the provisions of this Section.

The parties agree that no tax incentives shall be provided within an area of shared revenues unless both parties agree.

**Section 2.02. Sharing of Other Revenues.** The City agrees that for so long as the Joint Industrial Development Authority created in Article III is in existence to transfer to the Joint Industrial Development Authority one half of the net income to the City electric department from electric sales generated from the Economic Development Areas.. The City agrees specifically to pay to the Joint Industrial Development Authority at the end of each fiscal year one half of its net income derived from commercial and industrial electric sales within the economic development areas based upon the electric sales within said areas. The methodology for computation of sharing the net income from electric sales is shown on "Attachment B."

**Section 2.03.** The parties agree that existing taxes which they contemplate sharing under this Agreement are set forth as follows:

**Taxes Collected by the City to be Shared with the County:**

Real Estate Taxes  
Business Personal Property Taxes  
Machinery and Tool Tax (if applicable)  
Personal Property Taxes (Vehicle)  
Motor Vehicle Licenses  
Sales Tax  
Business License  
    Contracting  
    Retail Sales  
    Professional  
    Repairs/Personal Business  
    Wholesale  
Bank Franchise Tax  
Meals Tax  
Lodging Tax

**Taxes Collected by the County to be Shared with the City:**

Real Estate Taxes  
Business Personal Property Taxes  
Machinery and Tool Tax (if applicable)  
Merchant's Capital Tax (if applicable)  
Personal Property Taxes (Vehicle)  
Motor Vehicle Licenses  
Sales Tax  
Bank Franchise Tax  
Lodging Tax

The parties specifically agree to share the proceeds of any new taxes which shall be collected by either

jurisdiction in respect to the Economic Development Areas.

**Section 2.04.** Sharing of all revenues and taxes shall commence on the first day of the month following the effective date of statutory approval under Section 4.01. Where taxes are attributable in part to time periods prior to the effective date, the tax payments will be pro rated accordingly.

## ARTICLE III

### JOINT INDUSTRIAL DEVELOPMENT AUTHORITY

**Section 3.01. Creation of Authority.** The City Council and the Board agree to the creation of a joint industrial authority pursuant to the authority of Section 15.1-1387 of the Code of Virginia, 1950, as amended. The Joint Industrial Authority shall be created by a joint resolution which shall be adopted by the governing bodies and shall be in substantially the same form as the proposed ordinance which is attached as "Attachment C."

**Section 3.02. Budgets and Operating Expenses.** The City and the County shall equally contribute to the operations of the Joint Industrial Authority. (The one half of the electric department revenues to be paid by the City to the Industrial Development Authority under Section 2.02 shall not be considered as part of the City's contribution toward the operations of the Joint Industrial Development Authority under Section 3.02.)

Each year, on or before the 15th of January, the Board of Directors of the Joint Industrial Authority shall prepare and submit to the City and County a capital improvement budget for their approval, modification or rejection. Capital expenditures shall not include day-to-day maintenance and repair of buildings and facilities. The capital improvements budget shall include proposed economic development projects for the upcoming year.

Each year, on or before the 15th of January, the Board of Directors of the Joint Industrial Authority shall present to the City and to the County for their approval an operating budget for the next fiscal year.

The respective budgets shall be determined by the lesser amount approved by either of the governing bodies.

Each year the Joint Industrial Authority shall be audited by an independent auditing service paid for by its Board of Directors, and copies of the audit shall be furnished to both the City and County at their first regular meetings after the close of the fiscal year or thereafter as is reasonably expedient.

**Section 3.03. Powers of Authority.** Except as limited by this Agreement, the Joint Industrial Authority shall have all the powers granted to such an authority by Chapter 33 of Title 15.1 of the Code of Virginia, 1950 as amended.

**Section 3.04. Area of Operation.** The Joint Industrial Development Authority shall promote economic and industrial development within such areas of the City specifically designated by the parties and within the Economic Development Areas of the County described in this agreement.

**Section 3.05. Transfer of Properties Within City Industrial Site.** Upon obtaining the necessary statutory approvals described in Article IV herein , the City of Bedford agrees to transfer to the Joint Industrial Development Authority title to all properties and options upon properties located within the proposed City Industrial Park and the Joint Industrial Development Authority shall assume all obligations of the City in respect to such properties.

#### **ARTICLE IV**

#### **STATUTORY APPROVALS**

**Section 4.01.** The parties recognize that the provisions of Section 2.01 which provide for sharing of taxes and for boundary line adjustments if the County fails to share revenue in respect to specified projects under the provisions of Section 15.1-21.2 and Section 15.1-1167.1 are subject to submission and review by the Commission on Local Government as provided in Paragraph 4 of Section 15.1-945.3. In view of the fact that the City's agreements in Article I to provide public water and sewer utilities for such Development Areas is based upon the tax sharing of Economic Development/Industrial Park Projects found in Article II of this Agreement, the parties agree that the provisions of Article I and of Article II shall be contingent upon review of the provisions by the Commission on Local Government, upon enactment of required ordinances by the governing bodies, and upon affirming the provisions of the voluntary agreement by the three judge court as required under Section 15.1-1167.1.

**Section 4.02. Interim Development of Industrial Park in the City of Bedford and Extension of Services into Economic Development Area East of the City of Bedford.** The parties agree that it is in the best interests of the jurisdictions to proceed with the development of the industrial park within the limits of the City of Bedford and with the immediate extension of services to certain properties located within the Economic Development Area along the U. S. Route 460 corridor east of the City limits prior to the statutory approval of the provisions for sharing of revenues and taxes as set forth in Section 4.01.

Accordingly, the Board of Supervisors upon execution of this Agreement and prior to obtaining Statutory approval shall advance to the City an amount equal to the sums actually expended by the City for development of the Industrial Park site within the City up to the date of the

Agreement and shall share equally with the City the costs of further development of the Industrial Park site through FY 97-98. Such advances by the County shall not exceed the sum of \$425,000. Upon obtaining the statutory approval of this Agreement as referred to above, the Industrial Park property shall be conveyed to the Joint Industrial Development Authority pursuant to the provisions of Section 3.05 and all prior expenditures with respect to the Industrial Park site shall be treated as contributions by the County and by the City respectively to the Joint Industrial Development Authority. If Statutory approvals have not been obtained by December 31, 1998, then such advances by the County

shall be treated as loans to the City, without interest, and shall be repaid by the City in quarterly installments over a period of not more than five (5) years or according to such other schedule of repayment as the parties may agree.

A projected budget for the development expenses of the Industrial Park site located within the limits of the City of Bedford for FY 97-98 is attached as "Attachment D."

Prior to obtaining the Statutory approvals described above and immediately upon execution of this Agreement, the City agrees to modify its moratorium upon additional connections to the water and sewer systems outside the City limits by allowing additional sewer and water connections within the following properties:

- (A) The entire existing WalMart complex described on the County Tax Maps as Insert 130B;
- (B) A 4.97 acre tract, a part of Tax Parcel No. 130-A-9, shown as Tract 9A on a Plat of Survey prepared by Donnie W. Slusher, dated October 21, 1996, Commission No. 8911 (Andrew M. Ulmer).

(C) Tract 130-A-16B.

The obligation to provide such connections shall be conditioned upon availability of lines and upon the City's capacity to provide services, and such connections shall be subject to all existing City policies and without cost to the City.

As soon as the statutory approval have been obtained, the provisions for additional utility extensions into the county areas under Article I and for the sharing of revenues under Article II shall go into effect immediately.

## ARTICLE V

**Section 5.01.** Subject to the statutory approvals described in Section 4.01, this Agreement shall be binding upon and inure to the benefit of the future governing bodies of such jurisdictions, and upon any successors to the City or County.

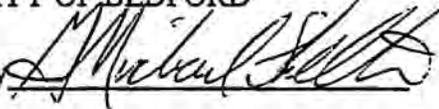
**Section 5.02.** This Agreement may be amended, modified or supplemented, in whole or in part, by mutual consent of the City and the County in a written document of equal formality and dignity, executed by duly authorized representatives of each jurisdiction; provided, however, that changes affecting tax and revenue sharing and additions to the designated Development Areas shall be subject to any additional review and approval by state agencies and courts as may be required by the statutes of Virginia as amended from time to time.

**Section 5.03. Severability.** In the event that any section, paragraph or provision of this Agreement shall be declared illegal or invalid or unconstitutional by final judgment of any court of competent jurisdiction, such judgment of invalidity shall not invalidate any other section, paragraph

or provision hereof, and all parts of this Agreement not expressly held invalid shall remain in full force and effect, and it is agreed and understood that this Agreement would have been entered into by the parties without such invalid provision.

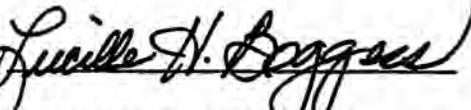
WITNESS THE FOLLOWING SIGNATURES AND SEALS:

CITY OF BEDFORD

By 

Its Mayor

BEDFORD COUNTY VIRGINIA

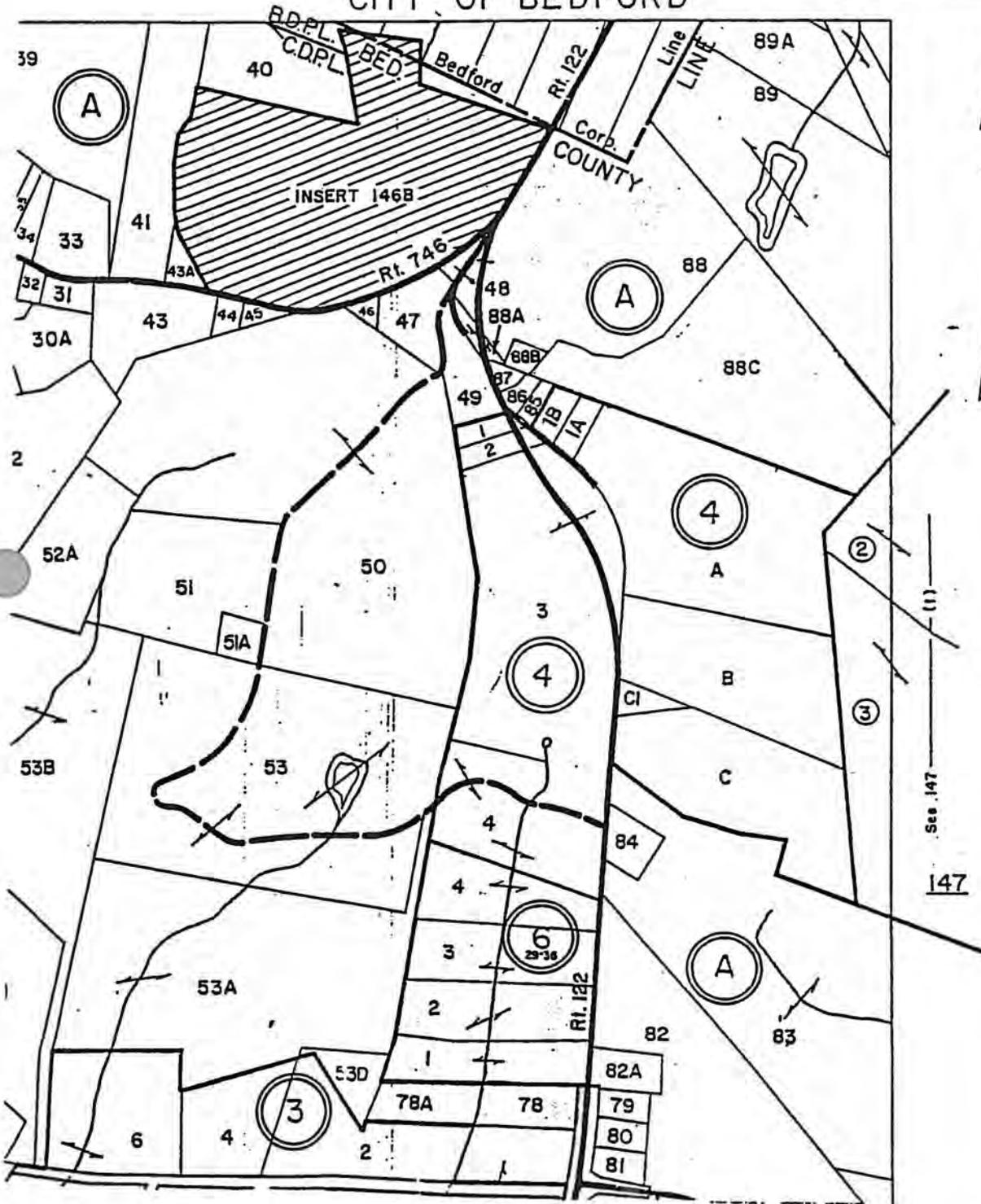
By 

CHAIRMAN, BOARD OF

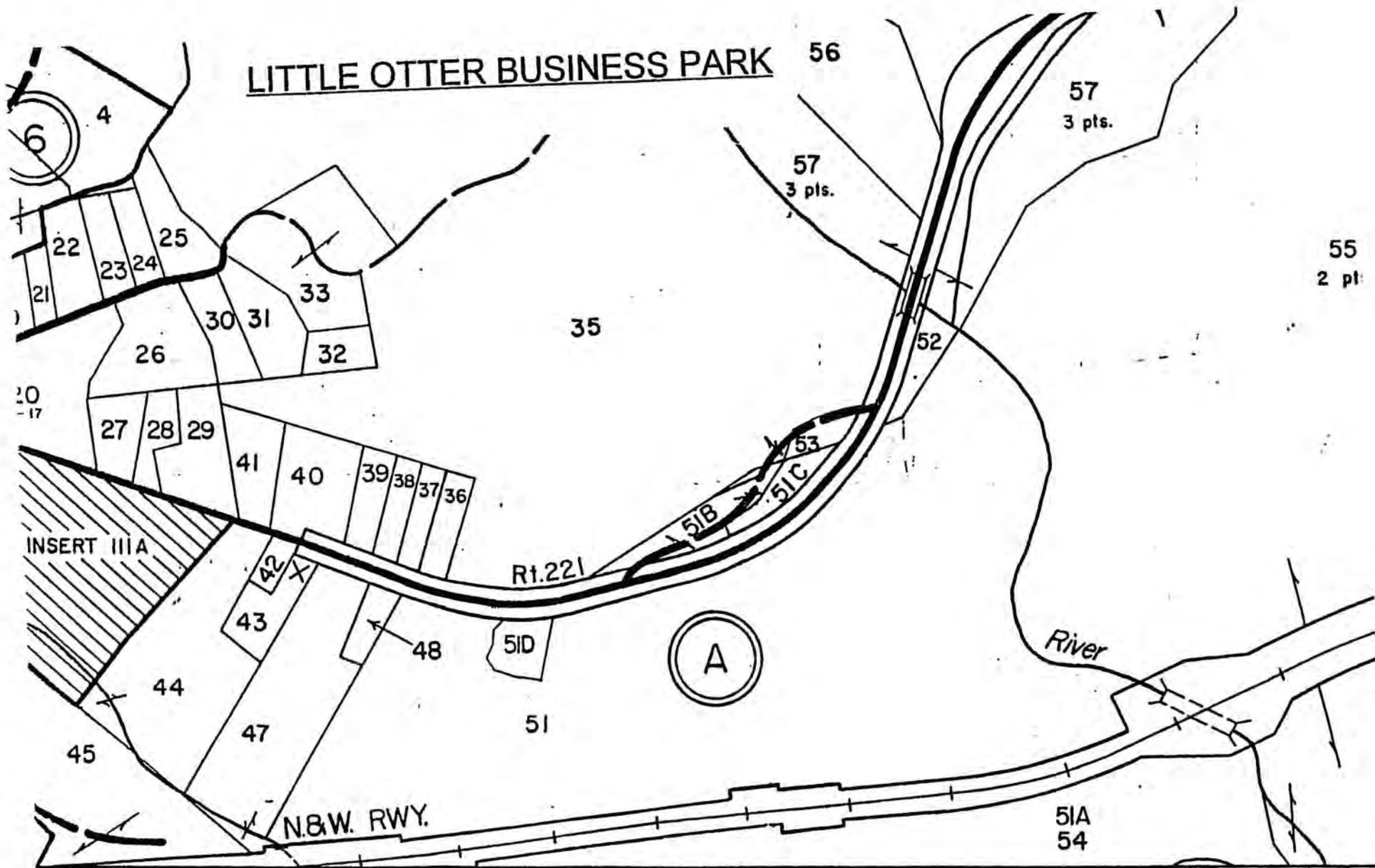
SUPERVISORS

# 122 SOUTH

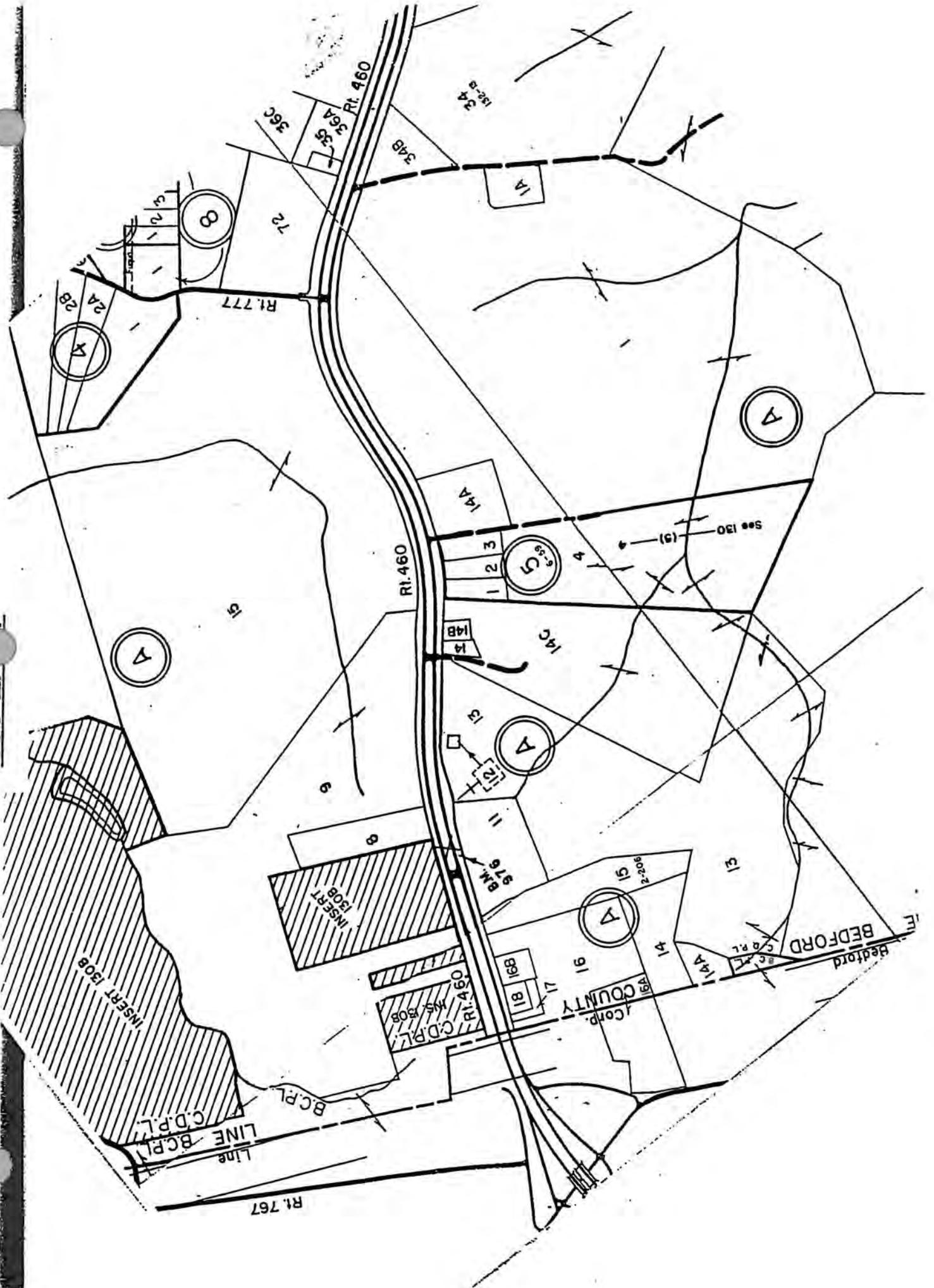
## CITY OF BEDFORD



# LITTLE OTTER BUSINESS PARK



460 EAST





## **Formula For Calculating Shared Revenue in Economic Development Service Area**

- STEP 1      CALCULATE INDUSTRIAL AND COMMERCIAL REVENUE GENERATED IN SHARED SERVICE AREA FOR FISCAL YEAR.
- STEP 2      CALCULATE PERCENTAGE OF STEP1 TO TOTAL SYSTEM REVENUE.
- STEP 3      CALCULATE TRANSFER TO GENERAL FUND.
- STEP 4      CALCULATE TOTAL SHARED REVENUE BY MULTIPLYING STEP 2 BY STEP 3.
- STEP 5      CALCULATE INDUSTRIAL DEVELOPMENT AUTHORITY PORTION OF TOTAL SHARED REVENUE BY MULTIPLYING STEP 4 BY 50%.

In the event that deregulation enables customer choice of service providers, this formula will be reviewed.

Revenues from Leases, Contracts or other entrepreneurial adventures such as Bedford Cablevision Pole Attachment Agreement and Skimmer Substation Lease with American Electric Power will be excluded from the calculation of Total System Revenue.

SHARED INDUSTRIAL AND COMMERCIAL ELECTRIC REVENUE IN ECONOMIC DEVELOPMENT AREA  
NUMBER 1 (EAST 460 FROM CITY LIMITS TO VDOT)

ACCT NUMBER	NAME	SV-TYPE	Jul-95	Oct-95	Jan-96	Apr-96	AVERAGE
2800129100	WAL-MART	LG	6,084.26	4904.31	6454.26	4658.76	5,525.40
2800130100		OL	37.50	38.04	37.5	37.5	37.64
2800131100		SG	219.83	29.6	195.42	104.67	137.38
2800132100		SG	28.48	23.22	50.07	18.82	30.15
2900098100	REVCO	SG	1,313.54	1142.02	796.2	1029.16	1,070.23
2800136100	TCR CORPORATION	SG	3,182.97	2987.4	3405.89	3122.67	3,174.73
2900436100	LONG JOHN SILVERS	SG	0.00	300.98	343.57	413.26	264.45
2900123100	CATO	SG	577.54	523.73	262.36	302.39	416.51
2900186100	FRANK'S PIZZA	OL	11.86	11.86	11.86	11.86	11.86
		SG	487.10	398.12	223.1	278.38	346.68
2900392100	COMMUNITY TV	SG	296.60	188.94	158.17	151.99	198.93
2900045100	AMERICAN GENERAL	SG	74.67	61.9	90.79	57.47	71.21
5773	GOODES CATERING	SG	1,225.20	813.39	1265.12	910.76	1,053.62
		OL	27.00	27	27	27	27.00
5607	BEDFORD PLAZA	OL	9.90	9.9	9.9	9.9	9.90
2900330100		SG	147.22	112.66	97.51	90.45	111.96
2800140100	BENNIE'S HOMES	OL	23.72	23.72	23.72	23.72	23.72
		SG	94.39	107.68	226.7	170.15	149.73
2900151100	VIDEO ELECTRONICS	SG	179.52	160.03	96.95	111.65	137.04
2800128100	PACK-IT-IN	SG	112.93	189.74	193.06	70.32	141.51
			14,134.23	12,054.24	13,969.15	11,600.88	12,939.63

REV GENERATED IN SHARED AREA \* 155,275.50

TOTAL SYSTEM REVENUE 11,989,179.00

% SHARED AREA 1.30%

TRANSFER 95-96 AUDIT 1,118,508.00

TOTAL SHARED REV 1.30% 14,540.60

SHARED REV TO IDA 50% 7,270.30

\* ESTIMATES ANNUALIZED FROM FOUR MONTHS DATA BASED ON TWO PEAK DEMAND MONTHS AND TWO LOW DEMAND MONTHS.

Attachment C

AN ORDINANCE CREATING A JOINT INDUSTRIAL DEVELOPMENT AUTHORITY FOR THE COUNTY OF BEDFORD AND THE CITY OF BEDFORD PURSUANT TO TITLE 15.1, CHAPTER 33 OF THE CODE OF VIRGINIA

BE IT ORDAINED, by the Council of the City of Bedford, Virginia and by the Board of Supervisors of the County of Bedford, Virginia:

Section 1. The Council of the City of Bedford and the Board of Supervisors of Bedford County hereby jointly create a Joint Industrial Authority for the City of Bedford, Virginia, and the County of Bedford, Virginia pursuant to the provisions of Section 15.1-1387 of the Code of Virginia, 1950, as amended, and which shall be subject to the following provisions:

JOINT INDUSTRIAL DEVELOPMENT AUTHORITY FOR THE CITY OF BEDFORD, VIRGINIA AND THE COUNTY OF BEDFORD, VIRGINIA.

ARTICLE I.

NAME AND PURPOSES OF ORGANIZATION

Section 1.1. Name of Authority.

The Authority shall be known as "The Joint Industrial Development Authority of the City of Bedford and Bedford County." The Authority may use the short title of "Bedford Joint Industrial Development Authority."

Section 1.2 Type of Authority The Authority shall be created under the provisions of the Industrial Development and Revenue Bond Act found in Title 15.1, Chapter 33, of the Code of Virginia, 1950, as amended, and is created specifically pursuant to the provisions of Section 15.1-1387 which provides for two or more municipalities to create jointly an Authority and to determine what limitations should be placed upon such Authority.

Section 1.3 Purposes and Powers. Except as limited by the terms hereof, the Authority shall have all the powers granted to Authorities under the provisions of Title 15.1, Chapter 33 of the Code of Virginia, 1950, as amended. The Authority shall be charged with the specific duty of developing and operating the Industrial Park site on property within the City of Bedford near Independence Boulevard and such additional park sites as may be designated by the City Council and the Board of Supervisor. The Authority also shall have the responsibility for promoting industrial and commercial development in certain areas of the City of Bedford and

Attachment C

dissolved pursuant to the provisions of Section 15.1-1385, and the title to all funds and properties owned by the Authority at the time of such dissolution shall vest equally in the City of Bedford and in the County of Bedford.

Section 2. This Ordinance creating a Joint Industrial Development Authority for the City of Bedford and for Bedford County shall become effective only upon adoption of both governing bodies, and such Ordinance shall be in full force and effect from and after the date of passage by the second governing body and after statutory approval of the Joint Economic Development and Growth Sharing Agreement dated June 2, 1997.

BUDGET AND PROPOSED TIMELINE FOR CITY/COUNTY INDUSTRIAL PARK						May-97
BUDGETED EXPENSE		CITY SHARE	COUNTY SHARE	VDOT GRANT	TOTAL	
<b>FY97-98 (INCLUDES FUNDS SPENT IN PRIOR YEARS BY CITY OF BEDFORD)</b>						
land acquisition		\$ 130,000.00	\$ 130,000.00		\$ 260,000.00	
engineering design		\$ 30,000.00	\$ 30,000.00		\$ 60,000.00	
access road		\$ 50,000.00	\$ 50,000.00	\$ 300,000.00	\$ 400,000.00	
other development costs		\$ 106,432.00	\$ 106,432.00		\$ 212,864.00	
& contingency						
	<b>TOTAL</b>	<b>\$ 316,432.00</b>	<b>\$ 316,432.00</b>	<b>\$ 300,000.00</b>	<b>\$ 932,864.00</b>	
<b>FY98-99</b>						
land acquisition		\$ 100,000.00	\$ 100,000.00		\$ 200,000.00	
other development costs		\$ 221,068.00	\$ 221,068.00		\$ 442,136.00	
& contingency						
	<b>TOTAL</b>	<b>\$ 321,068.00</b>	<b>\$ 321,068.00</b>		<b>\$ 642,136.00</b>	
<b>FY99-2000</b>						
land acquisition		\$ 87,500.00	\$ 87,500.00		\$ 175,000.00	
other development costs		\$ 42,500.00	\$ 42,500.00		\$ 85,000.00	
& contingency						
	<b>TOTAL</b>	<b>\$ 130,000.00</b>	<b>\$ 130,000.00</b>		<b>\$ 260,000.00</b>	
<b>TOTAL PROJECTED DEVELOPMENT COSTS BY FISCAL YEAR</b>						
		<b>CITY</b>	<b>COUNTY</b>	<b>VDOT</b>		
	FY97-98	\$ 316,432.00	\$ 316,432.00	\$ 300,000.00	\$ 932,864.00	
	FY98-99	\$ 321,068.00	\$ 321,068.00		\$ 642,136.00	
	FY99-00	\$ 130,000.00	\$ 130,000.00		\$ 260,000.00	
	<b>TOTAL</b>	<b>\$ 767,500.00</b>	<b>\$ 767,500.00</b>	<b>\$ 300,000.00</b>	<b>\$ 1,835,000.00</b>	
				<b>GRAND TOTAL</b>	<b>\$ 1,835,000.00</b>	

**STATISTICAL PROFILE OF THE CITY OF BEDFORD  
AND THE COUNTY OF BEDFORD**

	<u>City of Bedford</u>	<u>County of Bedford</u>
Population (1996)	6,400	54,400
Land Area (Square Miles)	6.8	764.0
Assessed Values (Fiscal Year 1996)		
Real Estate	\$220,066,300	\$2,364,073,182
Public Service Corporation	\$9,772,456	\$171,103,259
Total Taxable Retail Sales (1996)	\$72,117,611	\$142,941,427

**SOURCES:**

County of Bedford and City of Bedford,

Notice by the County of Bedford and the City of Bedford of their  
Intent to Petition for an Order Affirming a Joint Economic  
Development and Growth Sharing Agreement.

Virginia Department of Taxation,

Taxable Sales in Virginia Counties and Cities, Annual Report, 1996.

Weldon Cooper Center for Public Service,

"Population Estimates for Virginia Localities," (electronic data set).



# PROPOSED JOINT ECONOMIC DEVELOPMENT AREAS BEDFORD, VIRGINIA



LEGEND

- PRIMARY HIGHWAY
- SECONDARY HIGHWAY
- TERTIARY HIGHWAY
- RAILROAD
- UTILITY LINES
- WATERWAY
- ◻ JOINT ECONOMIC DEVELOPMENT AREAS
- ◻ COUNTY GROWTH AREA
- ◻ CITY LIMITS

